IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.340 OF 2003.

Subhash Motiram Gupta. ... Applicant.

Versus.

Anil @ Gappusing Ramnarayan Sing
and another. ... Respondents.

Shri Vinod Savaji i/by Shri P.B.Shah for the Applicant.

Ms.M.M.Deshmukh, A.P.P. for the Respondent-State.

CORAM : ABHAY S. OKA, J.

DATED : 16th June, 2005.

P.C.:

1. This Revision Application has been preferred by the Complainant for challenging the Judgment and Order dated 13th May 2003 passed by the learned Magistrate by which the Respondent No.1 was acquitted of offence punishable under sections 420, 323, 504, and 506 of the Indian Penal Code. The case of the Applicant is that the Respondent No.1 had taken a friendly loan of Rs.50,000/- from him on the ground that the amount was required for marriage of the sister of the Respondent No.1. The allegation of the Applicant is that he was cheated by the Respondent No.1 as money was not used for the marriage of the sister of the Respondent No.1. It is alleged that when he demanded the said sum of Rs.50,000/- from the Respondent No.1, he was assaulted

by the Respondent No.1 by fist blows and kicks and threatened the Applicant to kill him if demand was made for the said money.

2. The learned Magistrate held that the Applicant has not mentioned either in the F.I.R. or in the evidence the particular words of abuses. The existence of any injury on the person of the Applicant was not established. The Applicant did not state in his evidence whether threats were given to him. After appreciating the evidence, the learned Magistrate found that the other prosecution witnesses did not support the Complainant on the point of abuses, administering threats etc. Considering the evidence of the witnesses, the learned Magistrate held that the prosecution failed to prove that the Respondent No.1 either abused or misrepresented the Applicant to pay the sum of Rs.50,000/-.

3. The impugned Judgment and Order shows that the learned Magistrate has considered the evidence of all the witnesses and after appreciating their evidence, he has recorded the finding that the prosecution has failed to establish the guilt beyond reasonable doubt.

4. This is not a case where there is procedural irregularity or manifest error of law. This is also not a case where material evidence has been ignored by the

learned Magistrate. In view of this position, the evidence cannot be reappreciated in a Revision Application. The Revision Application is rejected.

Judge.